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12 UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 IMPLICIT NETWORKS, INC.,

16 Plaintiff,

17 v.

18 JUNIPER NETWORKS, INC.,

19 Defendant.

Case No. 10-CV-4234 SI

**JOINT CLAIM CONSTRUCTION AND
PREHEARING STATEMENT**

[PATENT L.R. 4-3]

20 IMPLICIT NETWORKS, INC.,

21 Plaintiff,

22 v.

23 HEWLETT-PACKARD COMPANY,

24 Defendant.

Case No. 10-CV-3746 SI

1 IMPLICIT NETWORKS, INC.,

2 Plaintiff,

3 v.

4 F5 NETWORKS, INC.

5 Defendant.

Case No. 10-CV-3365 SI

In accordance with Rule 4-3 of the Patent Local Rules of the United States District Court for the Northern District of California, Plaintiff Implicit Networks, Inc. and Defendants Juniper Networks, Inc., Hewlett-Packard Company and F5 Networks, Inc., provide the following Joint Claim Construction and Prehearing Statement in connection with the asserted claims of U.S. Patent Nos. 6,629,163 (the “’163 Patent”) and 7,711,857 (the “’857 Patent”)¹². Pursuant to the Case Management Conference Statement and Order in this case, the same constructions are proposed for each of the (now) three related cases.

(a) The Construction of Terms on which the Parties Agree (Pat. L.R. 4-3(a))

There are no constructions on which the parties agree.

(b) Proposed Constructions of Disputed Terms (Pat. L.R. 4-3(b))

The parties have narrowed their disputes to the terms presented in Exhibit A.

The Parties’ proposed constructions of these terms are set forth in the accompanying Exhibit A along with the intrinsic and extrinsic evidence on which the parties intend to rely. Copies of the patents-in-suit and the Reexamination Certificate for the ’163 Patent are attached as Exhibits B-D.

(c) Identification of Terms Whose Construction Will Be Most Significant, and of Case Dispositive Constructions (Pat. L.R. 4-3(c))

¹ For convenience, the parties have agreed that, for the purposes of claim construction briefing, all citations to the shared specification of the patents-in-suit will be made to the ’163 patent, unless otherwise indicated.

² No construction will be needed of terms in U.S. Patent Nos. 6,324,685, 6,976,248 and 7,774,740 (collectively the “Application Server Patents”). These patents (along with the ’163 and ’857 patents) were at issue only in the claims and counterclaims of the case filed against Hewlett-Packard; Implicit and Hewlett-Packard recently stipulated to a partial dismissal, of claims relating to the Application Server Patents.

The parties identify below the 10 terms whose construction will be most significant.

Plaintiff and defendants identify the following terms as significant, although they disagree on the proper wording for several of these terms:

| | Plaintiff's Wording | Defendants' Wording |
|---|--|--|
| 1 | Dynamically identify[ing] a [sequence/message specific sequence] of components | Dynamically identifying a non-predefined sequence of components and all variants |
| 2 | Non-predefined | Non-predefined sequence of components, and all variants |
| 3 | Message[s] | Message[s] |
| 4 | Select individual components | Selecting individual components to [create/form] the [message-specific] [non-predefined] sequence of components |
| | Create/form [the . . . sequence of components] | |
| 5 | Such that the output format ... match[es] the input format of the next component | identify[ing/ies].....a sequence of components....such that the output format ... match[es] the input format of the next component |
| 6 | Input/output format | Input/output format |

Plaintiff proposes the following two additional terms:

| | Plaintiff's Wording | Defendants' Wording |
|---|---|---|
| 7 | Indication of each of the identified components | Indication of each of the identified components |
| 8 | State information | State information |

Defendants propose the following two additional terms:

| | Plaintiff's Wording | Defendants' Wording |
|----|--|--|
| 9 | based on the first packet of the message | based on the first packet of the message |
| 10 | Processing | ...Processing...and all variants |

Plaintiff believes that none of the terms are claim/case dispositive. Plaintiff believes that only terms 1-3, 5-7, 9, 12, 13 and 14 on the attached Exhibit A may require construction.

Defendants believe that Terms 1-10 are claim/case dispositive for one or more Defendants and further believe that all the terms in Exhibit A are significant and require construction.

(d) Anticipated Length of Time Necessary for the Claim Construction Hearing (Pat. L.R. 4-3(d))

The parties anticipate that no more than four hours will be necessary for the claim construction hearing currently scheduled for January 11, 12, 2012.

(e) Whether Any Party Proposes to Call One or More Witnesses at the Claim Construction Hearing, and Summaries of Testimony (Pat. L.R. 4-3(e))

None of the parties intend to call a witness at the claim construction hearing.

Dated: October 18, 2011

Respectfully submitted:

HOSIE RICE LLP

/s/ George F. Bishop
George F. Bishop

Attorneys for Plaintiff Implicit Networks, Inc.

Dated: October 18, 2011

IRELL & MANELLA LLP

/s/ Daniel Hipskind
Daniel Hipskind

Attorneys for Defendant Juniper Networks, Inc.

Dated: October 18, 2011

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/s/ Christopher O. Green
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Attorneys for Defendant Hewlett-Packard Company

Dated: October 18, 2011

K&L GATES LLP

/s/ Shane Brun

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Attorneys for Defendant F5 Networks, Inc.

CERTIFICATION PURSUANT TO GENERAL ORDER 45

Pursuant to General Order 45X.B, I, George F. Bishop, attest that the above signatories for the Defendants have concurred and consented to the filing of this document.

DATED: October 18, 2011

/s/ George F. Bishop

George F. Bishop